

STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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SOUTH FLORIDA
WATER MANAGEMENT DISTRICT

In re:

**Emergency Authorization Re:
Procurement of Services Due
To Imminent Failure of the
Structure S-375**

SFWMD ORDER NO. 2008-267 DAO

8.

EMERGENCY ORDER

The Governing Board of the South Florida Water Management District ("District"), pursuant to Sections 120.569(2)(n), and 373.119(2) Florida Statutes, issues the following emergency order containing findings of fact, ultimate facts and conclusions of law:

FINDINGS OF FACT

1. STA-1East is the primary discharge route for the western C-51 Basin. The S-375 structure, located within STA-1E, is comprised of three large gated box culverts and is required to convey water from the STA-1East's inflow pump station (S-319) to the western half of STA-1East. The S-375 also allows water to be conveyed from STA-1East to STA-1West if capacity is available in STA-1West

2. In March of 2008 several sinkholes were discovered adjacent to the S-375 structure. Dive inspection of the box culverts revealed differential settlement and gaps between many of the box culvert segments. Despite the District and the United States Army Corps of Engineers' best efforts to mitigate

damage, close monitoring has recently revealed evidence of a continuing progressive failure necessitating repairs to S-375.

3. While the District has installed temporary facilities (e.g. pumps) to provide a portion of the capacity provided by S-375 this capacity is meaningfully less than the design (original) capacity. Therefore, the District will have reduced capacity to provide drainage until the S-375 structure is completely repaired or replaced, increasing the risk of flooding.

4. The wet season normally runs from June through October. A large rainfall event (or multiple smaller events) could result in flooding ranging from severe localized flooding of low lying areas to more regional flooding.

5. Based on the above findings of fact, the Governing Board of the District has determined that if not repaired immediately, harm will occur, causing danger to the public health, safety or welfare.

CONCLUSIONS OF LAW AND ULTIMATE FACTS

6. The District has authority to issue this Order under Sections 120.569(2)(n) and 373.119(2), Florida Statutes. Based on the above findings of fact, the Governing Board of the District has determined that that if not repaired immediately, harm will occur, causing danger to the public health, safety or welfare, and therefore concludes that an emergency exists.

7. The Governing Board of the District has adopted policies and procedures regarding the procurement of equipment, services and commodities, Chapter 155, SFWMD Policies and Procedures Code. Section 155-6 of the

policy recognizes exceptions to competitive procurements, including but not limited to emergency situations.

8. Based on the above findings of fact, and in order to protect the public's immediate health, safety and welfare interests, the Governing Board of the District has determined that it is both reasonable and appropriate to suspend any District rule, policy, or order requiring advertisement and competition and grant the Executive Director the authority to take such action as the Executive Director deems necessary to meet the emergency, including but not limited to, procurement of the equipment, services, and commodities necessitated by this emergency without advertisement or competition as described in the District's Procurement Policy.

NOTICE OF RIGHTS

Any party substantially affected by this Order has the right to seek judicial review of it under section 120.68, Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure, with the Clerk of the District at 3301 Gun Club Road, West Palm Beach, Florida 33406, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this Order is filed with the Clerk of the District.

ORDER

Based on the above findings of fact and conclusions of law it is ordered that the Executive Director shall direct District staff to take such action as the Executive Director deems necessary to meet the emergency, including but not

limited to, procurement of the equipment, services, and commodities necessitated by this emergency without advertisement or competition as described in the District's Procurement Policy as described below:

a. The procurement of all goods and services necessary to repair, maintain and restore S-375 to full operational condition.

b. This authorization shall expire on June 12, 2009 or when the necessary repairs to S- 375 are completed, whichever occurs first, unless otherwise extended or terminated by the Executive Director or Governing Board.

DONE AND ORDERED on this 12th day of June, 2008, in Fort Myers, Florida.

South Florida Water
Management District by its
Governing Board

By: *Sheryl Y. Wood*
General Counsel

Attestation:

By: *Jackie McGarty*
Date: *6/17/2008*



Legal Form Approved

By: *[Signature]*